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A PROPOSED MUNICIPAL ADMINISTRATIVE CODE FOR NEW JERSEY CITIES

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A municipal administrative code is conceived of as a document of legislative enactment providing the procedure which must be followed by city officers and employees in the exercise of their public functions. It would express in writing such minimum standards of operative efficiency as a business man would require in his private business. It would deal, not with the selection or election of the officials who are to perform the duties, but with the methods they shall employ in discharging them.

Such a code should be a separate document from the charter. It should present an orderly arrangement of all the procedure now contained in the city charter, together with such procedure found in the ordinances as is of a permanent character. Being intermediary between the charter and ordinances, it would be more subject to change than the charter, and less subject to change than city ordinances. The latter should contain only matters subject to frequent change, such as police regulations, license fees, etc. This elimination of procedure from the charter will lessen the necessity of charter amendment and permit that document to attain a permanency which will secure for it a proper measure of dignity and stability.

The code should be a complete manual of the procedure to be followed by each city official in administering the functions assigned to him by the charter or by other legislative acts. It should provide the procedure to be followed in the formulation of the budget, purchasing of supplies, letting of contracts, regulation of city advertising, construction of public improvements, issuance of bonds or corporate stock, establishing of sinking funds, recording and reporting of municipal transactions, issuance of warrants and all other matters of business procedure. A code might be so drawn that it automatically insures constructive city planning before expenditures are authorized.

One of its fundamental purposes should be to make available facts from which city officials may determine upon their program for each fiscal year.

Necessity for an Administrative Code

No American city has to-day, in one document, a complete codification of its administrative procedure and methods. To ascertain the procedure which should be followed in performing many administrative acts, it is necessary to search the general laws of the state, the city charter and the local ordinances. Not only does this tend to uncertainty among city officials as to what may be required of them, but it seriously handicaps the public in its dealings with the city. In contemplation of law, the private citizen is presumed to know the exact limitations of the authority of those who represent the city in its contractual relations. If these city officials assume authority not given by law, he deals with them at his peril.

A code, if only codifying existing requirements of procedure, would well justify its enactment. When properly drafted, it should go further and include matters of business procedure which are not usually found either in general laws, charters or ordinances, but are left to be settled according to the discretion of the official who happens to be in power.

To better illustrate how essential requirements of procedure and methods may be, a comparison of the experiences of two cities, each governed by commission, and each facing similar problems of community need, will be of interest. The commissioners of both cities are intelligent men and desirous of proving efficient administrators. The success of commission government in the one city has been so marked that the city is pointed to as proof of the merits of this form of government. Commission government in the other city may at best be termed only moderately successful. In the first city, both the program and routine of administration are based on known conditions of finance and on the story told by detailed records of expenses. In the other city, administrative action proceeds, not upon known facts, but upon an optimistic hope that the program and methods adopted may prove beneficial. An unnecessary expenditure in the first city may be at once ascertained from an examination of the accounts and records. In the second city, only by detailed analysis of expenditures in every instance, can a commissioner ascertain the significant facts even in his own department. The reason for this difference in the administration of the two cities will be found in the fact that three years before the first city adopted commission government it installed a most excellent system of municipal accounts.

This system has become a part of the city administration. It affords information from which adequate plans for both present and future needs can be formulated.

We are justified, then, in assuming that no community can provide for efficient and economical local government until it has provided for the installation of an adequate system of municipal accounts through an administrative code or by similar legislative enactment. The installation of proper accounting methods, while it gives a basis for efficiency tests and business methods, does not insure their adoption. The administrative code should meet this need and require the adoption of such business methods and efficiency tests as practical experience has shown to be necessary. For example, a city purchasing supplies through a central purchasing agency will probably obtain a lower unit cost on supplies than is possible where each department purchases for itself. The code should require all purchasing to be made through one bureau under prescribed business methods.

A comparative analysis of the procedure obtaining in various cities, discloses the fact that there is but little uniformity in municipal administrative methods. A similar analysis of the methods employed by large private corporations shows a decided similarity of methods employed and a positive uniformity in the fundamental principles of procedure.

Practicability of a Code

No adequate reason has ever been advanced why the business methods of a municipality cannot be made equally as efficient as the methods used in private enterprises. The success of business methods, when adopted, has been marked. By standardizing specifications for the purchase of supplies, the general practice among large business corporations, the City of New York has saved in one year a half million dollars. The problem of formulating an administrative code resolves itself into the feasibility of drafting a code of methods and procedure which will establish these uniform standards of business efficiency in municipal administration. Many laws of mandatory nature have signally failed in their attempts to legislate public officials into either honesty or efficiency. But the failure is often attributable to definite faults in the drafting of the laws. To be successful, mandatory laws of this character should be constructive

in nature rather than restrictive. The administrative code should prescribe only those methods which have a tried and known value, and should be limited to requiring only the essentials of efficient administration.

Though there may be good methods and bad methods of transacting the business of a municipality, there is also a best method. The best method for one city is usually the best method for others and it is for this reason that such a code may apply to all the municipalities within a state. In fact, a code of state-wide application has inherent advantages. It enables the public to be better acquainted with municipal procedure because of the certainty that the methods and requirements in effect in one city will be those in effect in all cities in the state. If a doubtful point is construed by the courts, the one decision clears that point of procedure for the entire state. Furthermore, it encourages outside bidding on city contracts, and gives added security in passing on the legality of bond issues.

Preparation of a Code

The drafting of a code cannot wisely be attempted until a careful study is made, not only of existing needs, but of existing legislation. It is essential to examine first the state constitution, the general laws and the city charter and ordinances. The constitution and court decisions construing it must be examined to determine the constitutionality of each proposed code provision. For example, a code to be constitutional must provide for proper notice to property owners before any steps may be taken which subject their property to special assessments or liens. By constitutional provision in most states, no property can be taken under the right of eminent domain, unless it is to be used exclusively for public purposes. This prevents code provisions for the condemnation of more property than the city may require for immediate needs, although it may be highly desirable that the city by such a purchase may avail itself of increased valuations due to public improvements, to better transit or to the construction of civic centers.

Three reasons suggest themselves for the necessity of a careful analysis of the general laws of the state and the city charter and ordinances before drafting an administrative code. First: So far as is possible, existing procedure should be re-enacted in the code. This will cause less confusion in following out the code provisions

and make the code more acceptable to the municipalities which will be governed by it. Second: Language which has been construed by the courts has a definite advantage over new phraseology. Such language should be used wherever feasible, as it insures the proper interpretation of the new enactment. Third: Existing forms of local governmental organization must be considered, that the code may provide procedure which will be in harmony with the organization of the city government, its various departments and offices.

If a repealing clause is added to the code, the schedule of laws repealed must be most carefully drawn, that it may leave in force all non-conflicting laws, but insure the repeal of all laws which might permit a choice of procedure, where such is undesirable. As has been suggested, much of the procedure of the code must be drawn from business and administrative experience. Very few satisfactory precedents for this will be found in legislative enactment, and in formulating such provisions the draftsman must begin *ab initio*.

Subjects Properly Regulated by a Code

It may be well to consider a few subjects of municipal administration which may properly be regulated by an administrative code.

(a) *Budget Making*.—The procedure for the proper formulation of a municipal budget is a matter of the greatest importance and is one that should be made definite. These provisions should include public hearings on a tentative budget based upon examination of detailed and classified requests from each department and office. The budget in its final form should be required to show the allowances grouped by specific functions. The appropriation for each department or office should be placed under the proper function and these appropriations again sub-divided as to the object of expenditure. The last classification, for example, will show separately the appropriations made for personal services, supplies repairs, replacements, etc. By summarizing the appropriations throughout the budget for any one of these classifications, the total allowance made for any kind of service or expense can be accurately obtained. A comparison of appropriations and results for a year with those of prior years, is of great interest to the taxpayer and necessary to scientific budget study.

(b) *Public Improvement Authorizations*.—It is entirely practical to require that a program for city improvements be formulated.

This program should include, not only the improvements for the ensuing year, but also a tentative program for succeeding years. It is also feasible and desirable to have provisions requiring that all sewers, water mains and service conduits shall be laid in a street before the paving is begun. Too often we witness the sorry spectacle of tearing up a sound and serviceable sewer, because newly constructed laterals have thrust upon it more sewerage than it was designed to carry. This may be eliminated by forbidding the construction of any sewer until a plan has been approved for a complete and adequate system draining the entire sewerage area.

(c) *Purchases*.—Both cities and private corporations depend upon competition to reduce their contractual expenditures to a minimum cost. But while this method employed by private concerns has been generally successful, employed by the city it has too often stultified itself. The key to successful competition is an absolute certainty among the bidders as to what they will be required to do and under what conditions it must be done. It is idle to provide an elaborate procedure in advertising for bids and fail to provide for specifications which permit bonafide competition. By standardizing specifications, forms of contracts and conditions for bidding, reductions of from ten to fifty per cent may be obtained in cost. Such standardizing is a proper requirement for the code. It will mean that coal will be bought for the heat it will give, not the clinkers it produces. If the city be of sufficient size, a testing laboratory as an adjunct to a purchasing department will make possible the purchase of many supplies on a basis of analysis, which otherwise must be bought on appearance and reputation.

Not only should the supplies be bought under standardized specifications, but they should be purchased through a central purchasing agency. Supplies not for immediate use should be retained in a central storehouse, and given out only upon a requisition from the department requiring them. The audit of claims against the city may be regulated by provisions of the code that insure inspection of supplies, while the supplies are still in existence. By making all contracts absolutely illegal which are not entered into as provided in the code, the merchant dealing with the city hesitates to attempt any short cuts or bids for favoritism which may leave him without recourse when his bill comes to audit.

(d) *Specific Application of Revenues*.—It is common to-day to

find that, by special legislation, certain revenues are pledged to certain kinds of administrative activity, without regard to the needs of the particular activity. Often the revenue from excise licenses is pledged to the support of the police department. This may be changed by the code, and city finances put on a sound basis by requiring that all income, with a few minor exceptions such as the payment of certain penalties to pension funds, shall go directly to the general fund, and from there be apportioned by the budget according to the needs of the city for the current year.

(e) *The Fee System*.—The code should abolish the fee system, which is a form of lottery for all concerned, and permit the substitution of adequate salaries in its place. Going one step further, it may require standardization of salaries throughout the city, according to the nature and measure of service rendered. This provision is a step in advance of even civil service, for civil service laws only relate to appointment and removal, and do not reach the abuses which have grown up through unequal salary fixation.

(f) *Hours of Service*.—Office hours of city employees are notoriously short, and, short as they are, there is usually no certainty that they will be observed. Minimum requirements of the time that each employee must devote daily to his official duties are advisable. To ensure the observance of these provisions, time sheets may be required. These time records are also essential to any system of cost accounting, which to-day should be a part of municipal bookkeeping.

(g) *Account Keeping*.—Admittedly, some difficulty may be experienced in making mandatory the installation of any definite procedure in accounting. To attempt to prescribe the various accounts that must be kept in each city department, and in every instance to give the details with which each transaction must be recorded, would make the code a treatise on municipal accounts, rather than a handbook of procedure. But up-to-date and efficient methods in accounting may be assured by other means. Definite requirements may be made as to what must be shown, where it must be shown, and in whom the control shall be vested. By requiring certain general records to be kept, and prescribing definite facts which they must show, the code can assure the city of an adequate and practical system of books and records. No system of book-keeping that does not come up to that standard would be able to meet the general requirements laid down by the code. By giving some

official the power and making it his duty to prescribe the form and details of the accounting methods of the city, the code may further insure the installation and operation of a system which will meet all the needs of the city. If the code is to be of state-wide application, a state bureau of municipal accounts would be recommended with jurisdiction over all the municipalities which are governed by the code. This state bureau might also be empowered to prescribe forms of standard specifications and standard forms of contracts.

(h) *Sinking Fund*.—Sinking fund requirements are a most important subject for regulation. The code should specify the methods to be followed in computing the annual installments to be included in the budget and should also provide for their investment.

A Code for New Jersey Cities

No code, drafted along the lines suggested in this article, is at present in effect. A code for New York City planned on somewhat similar lines was proposed by the Ivins Charter Commission in 1909. This code, while tentatively completed and submitted to the legislature, was never adopted, nor was the charter adopted which it was drafted to accompany.

Municipal conditions in New Jersey have caused a widespread dissatisfaction with existing city charters. Most of these charters have been in effect from forty to sixty years. By numerous amendments, usually made by laws of state wide application, their present interpretation has become uncertain. In many cases the form of organization prescribed by them is unsatisfactory. Even some charters of later enactment signally fail to meet community needs, and one mayor, whose city is governed by a recently enacted "model charter," advised all cities considering new charters to study carefully their charter first—so they might know what to avoid.

Recognizing the necessity of some concerted effort to improve these conditions, a conference of mayors of the New Jersey cities was recently called by Mayor Cooke, of Hoboken. The meeting was held under the auspices of the Robert L. Stevens Fund for Municipal Research in Hoboken, and was primarily for the purpose of considering the formulation of general laws providing up-to-date charters for use in the New Jersey cities. After a general discussion, it became evident that, great as was the need for charter revision, the need was still greater for a revision of municipal procedure. Business

methods were being neglected and city business was being transacted along lines which long since had been discarded by business men.

As a result of the conference, Governor Wilson appointed a committee of seven mayors and other city officials to consider and report upon a municipal administrative code for New Jersey cities. The Robert L. Stevens Fund was requested to prepare and to present to the committee a tentative draft of a code formulated along lines suggested at the conference. This effort is notably significant as an indication of a definite advance in municipal thought in New Jersey, and its results will be of more than local interest. It marks a distinct step toward a more efficient municipal administration, one which will be governed by rational business principles.